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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/776,996

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Masashi Tatsukawa

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5859

7590

08/22/2005

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EXAMINER

TSIDULKO, MARK

ART UNIT

PAPER NUMBER

2875

DATE MAILED: 08/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/776,996	TATSUKAWA ET AL.	
	Examiner	Art Unit	
	Mark Tsidulko	2875	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 February 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 4 and 5 is/are rejected.
- 7) ☒ Claim(s) 2 and 3 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>080905</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claim 1 is provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 1 of copending Application No.

10/775,276. Although the conflicting claims are not identical, they are not patentably distinct from each other because the subject matter claimed in the instant application is disclosed and covered in the copending application.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

<i>Claims of the instant application</i>	<i>Claims of the application (‘276)</i>	<i>D i f f e r e n c e s</i>
1	1	<p>The scope of claim 1 of the instant application is incorporated in the copending application (‘276). As shown in the patented claims a device includes:</p> <p>Referring to Claim 1:</p> <ul style="list-style-type: none"> - a plurality of LEDs approximately aligned; - an optical component having its optical center on one of the plurality of LEDs. <p>Referring to Claim 1 of (‘276):</p> <ul style="list-style-type: none"> - a plurality of LEDs aligned by aligning their one sides with a predetermined straight line; - an optical component having its optical center on one of the plurality of LEDs.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Katoh (US 5,032,960) in view of Tiao et al. (US 6,254,246).

Art Unit: 2875

Referring to Claim 1 Katoh discloses (Figs.5, 6B) a lighting device including a plurality of aligned LEDs [32] and an optical component (lens) [34] operable to irradiate light emitted by the LEDs toward the emitting direction.

Katoh discloses the instant claimed invention except for that the optical center of the optical component is on one of the plurality of LEDs.

Tiao et al. disclose (Fig.7A) a plurality of the aligned LEDs [712] and the optical component (lens) [740] having its optical center on one of the LEDs, what allow to obtain symmetrical light distribution pattern.

Referring to Claim 4 Katoh discloses the instant claimed invention except for an odd number of semiconductors and the optical center of the optical component positioned at the center of them.

Tiao et al. (Fig.7A) disclose this limitation.

It would have been obvious to one having ordinary skill in the art, at the time the invention was made, to provide the optical component having its optical center on one of the LEDs, as taught by Tiao et al. for the device of Katoh, in order to obtain symmetrical light distribution pattern.

Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Katoh and Tiao et al., as applied to claim 1 above, and further in view of Massieu et al. (US 5,397,885).

Katoh et al. disclose the instant claimed invention except for an asymmetrical arrangement of the plurality of the semiconductors with respect to the optical center of the optical component.

Art Unit: 2875

Massieu et al. disclose an asymmetrical arrangement of the plurality of the LEDs with respect to the optical center, what allow to obtain asymmetrical light distribution pattern.

It would have been obvious to one having ordinary skill in the art, at the time the invention was made, to provide the to asymmetrical arrangement of the plurality of the LEDs with respect to the optical center, as taught by Massieu et al., for the device of Katoh, in order to obtain asymmetrical light distribution pattern.

Allowable Subject Matter

Claims 2, 3 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is an examiner's statement of reasons for allowance:

Referring to Claim 2 the prior art of record fails to show a headlamp including a semiconductor having a side at the end thereof wherein an optical center of the optical component is on this side.

Claim 3 is objected as claim depended on claim 2.

Conclusion


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark Tsidulko whose telephone number is (571)272-2384. The examiner can normally be reached on 8 - 5.

Art Unit: 2875

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sandra O'Shea can be reached on (571) 272-2378. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306 for all communications.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

M.T.
August 9, 2005



JOHN ANTHONY WARD
PRIMARY EXAMINER